

Remarks

1. Status of claims

Claims 1-17 are pending.

2. Support for amendments

The amendment of claim 1 generally reverts the text of the claim to the original text, with the exception of adding a limitation regarding the oxygen transmission rate of the container. The added limitation is supported by the specification at p. 25, lines 18-22. No new matter has been added.

3. Claim rejections under 35 U.S.C. §103

First, claims 1-12 and 16-17 were rejected in Paper No. 17 under 35 U.S.C. §103(a) as being unpatentable over Ching, U.S. Pat. No. 5,744,246 (“Ching”) in view of Nordstrom, U.S. Pat. No. 3,536,687 (“Nordstrom”), for reasons made of record in Paper No. 8. In light of the above amendment, Applicants respectfully traverse this rejection.

The present claims, as amended, recite that the container has an oxygen transmission rate (OTR) of less than about 1.0 cc O₂ per square meter per day at atmospheric pressure and 25°C. Ching, in contrast, teaches a scavenging ribbon attached to the main walls of the container (col. 3, line 51-col. 4, line 17). The ribbon can comprise a polymeric selective barrier layer “which functions as a selective barrier to certain oxidation products but *not* to oxygen” (col. 4, lines 57-58, emphasis added). Ching thus teaches away from polymer layers having a composition and thickness sufficient to provide a substantial barrier to oxygen. The present claims recite containers with an oxygen barrier wall structure having an oxygen scavenging core layer which

scavenges such oxygen as may pass through an outer oxygen barrier layer. Further, the ribbon of Ching would have little impact on oxygen transmission through the container of Ching, whereas the present claims refer to oxygen transmission across the entire container.

Nordstrom teaches that polymers containing cyclohexenyl moieties can scavenge oxygen. However, if a skilled artisan were to consider such polymers for use in the scavenging layer of the ribbon of Ching, he would not expect those polymers to have a significant impact on oxygen transmission across a container containing a ribbon of Ching.

Therefore, Applicants respectfully submit that claims 1-12 and 16-17 are patentable over Ching and Nordstrom, and this rejection should be withdrawn.

Second, claims 13-15 were rejected in Paper No. 17 under 35 U.S.C. §103(a) as being unpatentable over Ching and Nordstrom, further in view of Katsumoto et al., U.S. Pat. No. 6,139,770 ("Katsumoto"). The references are as discussed in Paper No. 8. In light of the above amendment, Applicants respectfully traverse this rejection.

Katsumoto was cited by the Examiner because it discusses photoinitiators, and supplements Ching and Nordstrom in this regard. Katsumoto teaches that particular photoinitiators reduce the induction time of oxygen scavenging by a scavenging polymer. However, for reasons similar to those discussed above regarding Nordstrom, if a skilled artisan were to consider such photoinitiators for use in the scavenging layer of the ribbon of Ching, he would not expect those polymers to have a significant impact on oxygen transmission across a container containing a ribbon of Ching.

Therefore, Applicants respectfully submit that claims 13-15 are patentable over Ching and Nordstrom in view of Katsumoto, and this rejection should be withdrawn.

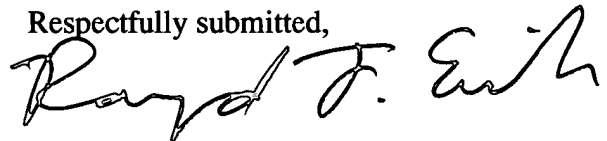
4. Claim rejections under 35 U.S.C. §112

Claims 1-17 were rejected in Paper No. 17 under 35 U.S.C. §112 as containing new matter; specifically, the Examiner considered the phrases “providing substantially all of the interior surface of the rigid container” and “substantially coextensive” to lack support in the specification. Although Applicants submit that support for these phrases is implicit in the specification, by the above amendment, these phrases have been removed from the claims, and therefore Applicants respectfully request this rejection of claims 1-17 be withdrawn.

5. Closing remarks

Applicants believe all pending claims are in condition for allowance. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Assistant Commissioner is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.006100RFE.

Respectfully submitted,



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